

## REMARKS

Claims 1 and 2 are withdrawn from consideration as being drawn to a non-elected claimed invention. Original claims 3 and 4 are amended, claim 5 is cancelled and new claims 6-18 are added.

The rejection of original claims 3 and 4 under 35 U.S.C. 103(a) as being unpatentable over MacBeth (US 20030085783) is traversed.

It is noted that MacBeth was published on May 8, 2003, more than 2 years after our application was filed. Therefore, as our application was filed before MacBeth was published, MacBeth is not a valid prior art reference for rejecting claims 3 and 4. The Examiner is respectfully requested to withdraw his rejection of claims 3 and 4.

Original claims 3 and 4 are amended and claims 6-18 are added to more positively define our invention and more clearly avoid the art cited.

The Examiners rejection of claim 5 under 35 U.S.C. 103(a) as being unpatentable over Benke et al. [US 5,286,394] is traversed. The Examiner states that it would have been obvious to one of ordinary skill in the art at the time the invention was made to pretrip a GFCI prior to installation, as suggested by Benke et al., in order to prevent a shock hazard. Claim 5 is now cancelled but, for the record, the Benke reference is addressed.

Benke discloses a mechanism for opening and closing contacts to a voltage circuit breaker, not a GFCI, to either allow a worker to perform maintenance work on the circuit breaker or to allow the circuit breaker itself to be removed from an enclosure for maintenance purposes.

More specifically, the mechanism of Benke includes a first spring which opens the contacts of a circuit breaker and a second spring which both closes the circuit breaker contacts and, in addition, tensions the first spring so it can be used to open the contacts of the circuit breaker. To protect a maintenance worker, both springs must be released of their tensions before any work can be done on the circuit breaker. The release

mechanism for the two springs is located in the top face of the housing for the circuit breaker.

Thus, Benek discloses the structure of two springs for opening the contacts of a circuit breaker, not a GFCI. Therefore, to pretrip Benke as suggested by the Examiner means only that the contacts of the circuit breaker are opened and that they can be closed at any time, even when the circuit breaker is not operating properly. In counter distinction, when our invention is in its tripped state, the contacts cannot be closed when the circuit interrupting portion is not operating properly. When our device is tripped it cannot be set to its conducting state unless the circuit interrupting portion of the GFCI is operating properly. This is totally different from pretripping or opening the contacts of a circuit breaker as disclosed by Benke. As noted above, with Benke, when the circuit breaker is not operating properly and it is pretripped, its contacts can still be closed and the circuit breaker can still conduct. Clearly, Benke cannot be set to a reset lock out state as disclosed and claimed by us.

There is a substantial difference between a circuit breaker that is pretripped as disclosed by Benek; and a GFCI that is tripped as disclosed and claimed by us.

Our claims avoids the Benek reference by reciting the steps of...receiving for distribution a circuit interrupting device having a reset lockout portion, manual trip and reverse wiring protection manufactured in a tripped state and placing the circuit interrupting device in the stream of commerce while in the tripped state.

It is our understanding that claims 3, 4 and 6 - 18 clearly avoid the art of record and, therefore, are now believed to be in condition for allowance.

Early and favorable reconsideration is respectfully requested. The Commissioner is hereby authorized to charge any fees which may be required for the amendment, or credit any overpayment to Deposit Account No. 12-1185 of Leviton Manufacturing Co., Inc.

In the event that an extension of time is required to make this amendment timely filed, the Commissioner is requested to grant a petition for that extension of time which is

required to make this amendment timely and is hereby authorized to charge any fee for such an extension of time or credit an overpayment for an extension of time to Deposit Account No. 12-1185 of Leviton Manufacturing Co., Inc.

Respectfully submitted,



Date: May 18, 2005

Paul J. Sutton  
Registration Number 24,201  
Attorney for Applicants  
Tele: (212) 801-2108  
Fax: (212) 801-6400

GREENBERG TRAURIG, LLP  
200 Park Avenue  
New York, NY 10166